

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

IN RE: MICROGEM US, INC.
Debtor

CASE NO. 23-60528

LIMITED OBJECTION OF CANVASBACK REAL ESTATE & INVESTMENTS, INC.
TO DEBTOR'S MOTION TO REJECT CERTAIN UNEXPIRED LEASES AND
TO ABANDON CERTAIN PERSONAL PROPERTY EFFECTIVE
AS OF THE PETITION DATE

To the Honorable Rebecca B. Connelly, United States Bankruptcy Judge:

Comes now Canvasback Real Estate & Investments, Inc. ("Canvasback"), a secured creditor herein, by counsel, and represents to the Court as follows:

BACKGROUND

1. On June 21, 2023 the Debtor filed its Omnibus Motion to reject certain unexpired leases and executory contracts and to abandon certain personal property. Among the leases cited in said Motion was a lease dated April 29, 2019 by and between Canvasback, as Lessor, and the Debtor, as Lessee, for premises located at 705D Dale Avenue, Charlottesville, Virginia.

2. Prior to the filing of its petition for relief under Chapter 11 on May 8, 2023, the Debtor had defaulted on its rent payments under said lease. Canvasback obtained a judgment in the Circuit Court of the City of Charlottesville, Virginia on March 11, 2023 for \$83,762.67 for the past due rent and other expenses. Canvasback is therefore scheduled as a secured creditor pursuant to said judgment.

3. Following the Debtor's default, Canvasback took possession of the office equipment, lab equipment and other personal property on the premises. Canvasback moved said equipment to a smaller location in the same building at 705 Dale Avenue; the premises leased by the Debtor were approximately 8,000 square feet, and Canvasback moved the equipment to premises of approximately 1,900 square feet.

4. In December, 2022 Canvasback sold the building at 705 Dale Avenue. Since that time Canvasback has been paying rent to the new owner at the rate of approximately \$2,800.00 per month for storage of the Debtor's equipment.

5. Pursuant to the above-referenced judgment for rent, Canvasback initiated the process for sale of the Debtor's equipment. Said sale was stayed by the filing of the Debtor's Chapter 11 petition. Accordingly, Canvasback has continued to incur rent payments at the rate of \$2,800.00 per month for storage of the Debtor's equipment.

LIMITED OBJECTION

7. In its Motion the Debtor has asked the Court to allow the Debtor to abandon the property which it used in its Charlottesville premises and which Canvasback is currently maintaining in storage. Canvasback supports the Debtor's motion for abandonment, and upon the grant of said Motion, Canvasback intends promptly to sell the equipment and thereby reduce the amount of its claim against the Debtor.

8. However, the Debtor is also asking the Court to authorize such abandonment as of the petition date, i.e., May 8, 2023. If the Court were to grant that aspect of the Debtor's motion it would presumably limit or foreclose the ability of Canvasback to claim the rent it has been, and will continue, to pay for storage of the Debtor's property as an administrative expense in this Chapter 11.

WHEREFORE, Canvasback Real Estate & Investments, Inc., by counsel, moves the Court as follows:

- (a). To grant the Debtor's Motion to Abandon the property formerly used by the Debtor in the premises leased from Canvasback at 705D Dale Avenue, Charlottesville, Virginia;
- (b) To deny the Debtor's Motion to authorize the abandonment as of the petition date;
- (c) For such other relief as is just, equitable, and appropriate.

Respectfully submitted,
CANVASBACK REAL ESTATE &
INVESTMENTS, INC.

By counsel

/s/Douglas E. Little
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CERTIFICATE

I hereby certify that a true copy of the foregoing was electronically transmitted this 3rd day of July, 2023, to counsel for the Debtor, the United States Trustee, and counsel for the Creditors' Committee.

/s/Douglas E. Little